

SENATE BILL 1138

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 68,  
relative to diseases afflicting children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 1, is amended by adding the following as a new part 26:

**68-1-2601.** This part shall be known and may be cited as the "Access to Pediatric Rare Disease Treatment Information Act."

**68-1-2602.** As used in this part, unless the context otherwise requires:

(1) "Essential treatment information" means all treatment information pertaining to patients who are under eighteen (18) years of age at the time they are diagnosed with any form of cancer, including, but not limited to, leukemia of all types, glioma, lymphoma, medulloblastoma, neuroblastoma, osteosarcoma, sarcoma, and Wilms tumor;

(2) "Participating institution" means any institution, within or without this state, that elects to maintain essential treatment information and issues a statement of participation;

(3) "Participating state" means any state in the United States that has a law that is substantially similar to this part;

(4) "Participation obligation" means the obligation assumed by a participating institution under this part;

(5) "Provide" means to deliver in writing by United States mail, common carrier, or by email or other electronic means;

(6) "Statement of participation" means a statement to the commissioner of health whereby a hospital or other institution declares its intention and ability to be a

participating institution. The statement of participation shall include the words: "[name of institution] is prepared to maintain essential treatment information in compliance with Tennessee Code Annotated, Title 68, Chapter 1, Part 26, and accordingly declares that it is a participating institution as that term is defined by the Access to Pediatric Rare Disease Treatment Information Act"; and

(7) "Treatment information" means the following items of information, with respect to a given patient:

- (A) All prior zip codes where the patient has resided from birth and the period that the patient resided at each zip code;
- (B) Date of diagnosis;
- (C) Date of recurrence of cancer, if applicable;
- (D) Diagnosis;
- (E) Drug therapies administered;
- (F) Entry into clinical trials;
- (G) Images taken, whether by X-ray, MRI, CAT-Scan or other means;
- (H) Outcome of treatment;
- (I) Radiation administered; and
- (J) Zip code where the patient resided at the time of diagnosis.

**68-1-2603.** An institution that desires to be a participating institution and can meet its participation obligation must issue a written statement of participation. The statement of participation must be delivered to the commissioner of health and must be posted by the institution on a website accessible by the public or must be forwarded by the institution in writing to every hospital in this state that has in excess of one hundred (100) beds and provides inpatient care to patients under eighteen (18) years of age.

**68-1-2604.** A participating institution must maintain all essential treatment information with respect to patients admitted for care after January 1, 2018, or following issuance of a statement of participation, whichever is earlier. Upon receipt of a written request by another

participating institution, a participating institution shall provide all requested essential treatment information to the requesting participating institution within ten (10) days.

**68-1-2605.**

(a) A participating institution that, upon receipt of a participation request from another participating institution, cannot timely fulfill the participation request, shall provide the requesting institution, within ten (10) days from the date of the original request, either a statement of variance or a statement of incapacity.

(b) A statement of variance must state the date on which the participating institution can fulfill the participation request, not to exceed sixty (60) days, and state the reason that the participating institution requires more than ten (10) days to fulfill the participation request.

**68-1-2606.** A statement of incapacity must state that the participating institution cannot fulfill the participation request in whole or in part. At its sole discretion, a participating institution may include in its statement of incapacity the reason that the participating institution cannot fulfill the request; the actions being taken by the participating institution, if any, to develop the capacity to fulfill the information requests in the future; the expected date that the participating institution will have developed the capacity; and any other information that the participating institution deems informative.

**68-1-2607.** A participating institution may satisfy a participation request by providing a requesting participating institution access to a database containing the essential treatment information requested by that participating institution. The database may be on the internet, on a proprietary network, or in any other configuration that permits access by participating institutions at the discretion of the participating institution using the database to satisfy participation requests.

**68-1-2608.** Statements of incapacity and the participation requests to which the statements of incapacity are directed, as well as minutes of the advisory board, with any appendices, shall be public records as defined in § 10-7-503. A copy of any statement of incapacity, along with a copy of the participation request to which the statement of incapacity is directed, must be provided, within a reasonable time not to exceed sixty (60) days from the date the statement of incapacity was sent to the participating institution making the participation request, to the commissioner of health and the division of records management of the department of state.

**68-1-2609.** An advisory board provides nonbinding guidance with respect to implementation of this part. The appointees shall be selected as follows: two (2) members shall be selected by St. Jude Children's Research Hospital, if it is a participating institution; two (2) members shall be selected by the Monroe Carell, Jr. Children's Hospital at Vanderbilt, if it is a participating institution; one (1) board member shall be selected by each additional participating institution located in the state of Tennessee; and two (2) members shall be selected by the governor to represent patients and other interested members of the public, as determined by the governor at the governor's discretion. The commissioner of health and each of Tennessee's appointees to the National Conference of Commissioners on Uniform State Laws shall be nonvoting members of the advisory board. The advisory board shall have a chair, vice chair, and secretary, to be elected by the members of the advisory board.

**68-1-2610.** The advisory board shall meet once per year and at such other times as the advisory board deems useful, to be determined at the discretion of the advisory board. The time and location of any meeting shall be determined by the advisory board. A member of the advisory board can participate in its meetings via telephone or other electronic means; however, advisory board members shall make their best effort to attend meetings in person.

**68-1-2611.** At its required annual meeting, the advisory board shall elect its chair, vice chair, and secretary. The advisory board may discuss ways and means whereby participating institutions can expeditiously maintain essential treatment information, fulfill participation requests, and otherwise contribute to increasing the seamless flow of essential treatment information among participating institutions. In addition, at the request of any member of the advisory board, the advisory board shall address any statement of incapacity issued during the two-year period prior to the annual meeting and, at the discretion of the advisory board, issue a statement regarding the cause for the participating institution's issuance of the statement of incapacity and plans to alleviate that cause and provide for the timely fulfillment of similar participation requests in the future. The advisory board may also address any other subject at its discretion. The secretary of the advisory board must summarize its proceedings in minutes, which must be provided to all members of the advisory board, voting and nonvoting, within sixty (60) days following the conclusion of the required annual meeting of the advisory board. Any member of the advisory board may distribute a comment to the minutes to all members of the advisory board within ten (10) days of receiving the minutes from the secretary, which comments will be deemed an appendix to the minutes of the advisory board.

**68-1-2612.** The members of the advisory board shall not be compensated by the state or any subdivision thereof for their participation on the advisory board or for expenses incurred in connection with that participation.

**68-1-2613.** The requirements of this part are in addition to any imposed by federal law or the law of this state. Nothing in this part is to slow, inhibit, or restrict transfers of information among participating institutions, between participating institutions and other entities, or between participating institutions and the public. Nothing in this part requires or authorizes the violation of any applicable federal or state law concerning the privacy or confidentiality of patient information.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.